



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 22-99
January 31, 2022

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE
TRANSFER OF CONTROL OF CABLESOUTH MEDIA III, LLC
TO ITC BROADBAND HOLDINGS, LLC**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 22-11

Comments Due: February 14, 2022
Reply Comment Due: February 22, 2022

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by Hunt Land Holdings, LLC (Hunt Land Holdings), CableSouth Media III, LLC d/b/a Media 3 (CableSouth), and ITC Broadband Holdings, LLC (ITC Holdings) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, requesting consent to consummate a transaction in which ITC Holdings will indirectly acquire a 35% ownership interest in and control of CableSouth.¹

CableSouth, a Tennessee limited liability company, is wholly owned by CableSouth Media, LLC, a Tennessee limited liability company that is, in turn, wholly owned by Hunt Land Holdings, a Louisiana limited liability company that does not itself provide telecommunications services.² Hunt Land Holdings and CableSouth, bidding through the Segnem Egere Consortium, participated in and won the rights to provide service to 57,387 locations in Arkansas, Louisiana, and Mississippi through Phase I of the Rural Digital Opportunity Fund (RDOF) Auction.³ The Consortium assigned its winning RDOF bids to CableSouth.⁴ CableSouth is an eligible telecommunications carrier (ETC)

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04; Application of Hunt Land Holdings, LLC and ITC Broadband Holdings, LLC for Consent to Transfer Control of Domestic Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 22-11 (filed Jan. 5, 2022) (Application). On January 26, 2022, Applicants filed a supplement to their Application. Letter from Leon Nowalsky, Counsel for Hunt Land Holdings and CableSouth, and John Beahn and Dana Zelman, Counsel for ITC Holdings, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-11 (filed Jan. 26, 2022) (Supplement). Any action on this domestic section 214 application is without prejudice to Commission action on other pending applications.

² Application at 2, 8. Hunt Land Holdings is owned by several U.S. citizens and U.S.-based family trusts. Supplement at Exh. B (Management and Ownership for Hunt Land Holdings, LLC).

³ Application at 2-3 and n.2; Supplement at n.3 (stating that CableSouth was awarded \$152,854,440.70 over a 10 year period). See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced*, AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, Public Notice, 35 FCC Red 13888, Attach. A (Winning Bidder Summary) (2020); *Rural Digital Opportunity Fund Support for 7,608 Winning Bids Ready to be Authorized, Bid Defaults Announced*, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, Public Notice, DA 21-1582, Attach. A (Ready to Authorize Long-Form Applicants and Winning Bids) (WCB 2021).

in each of the jurisdictions in which it won RDOF bids.⁵ Under the brand names, SwyftConnect and Swyft Fiber, CableSouth currently offers broadband, video, and voice services in Arkansas, Louisiana, and Mississippi.⁶

ITC Holdings, a Delaware limited liability company, is affiliated with incumbent local exchange carrier (LEC) and other telecommunications service providers in Colorado, Georgia, Kansas, Nebraska, and Texas.⁷ According to Applicants, the following U.S.-based investment entities will own a 10% or greater equity interest in ITC Holdings upon consummation of the proposed transaction: HF Direct Investments Pool LLC (14.5%); 4612-Broadband Holdco, LP (14.5%); ITC Broadband Investments (QP), LLC (17.8%); Kinetic-ITC Broadband Investments, LLC (13.9%); Atlantic Engineering Group, Inc. (16.2%), and ITC Broadband Management, LP (15%).⁸ Applicants state that no other entity or individual will hold directly or indirectly a 10% or greater interest in ITC Holdings.⁹

Pursuant to the terms of the proposed transaction, which will occur through a series of steps, ITC Holdings will indirectly acquire approximately 35% of the voting and equity interests in CableSouth from Hunt Land Holdings, along with certain shareholder rights.¹⁰ Post-consummation ITC Holdings will “have the right to designate a minority of the members of the board of CableSouth’s parent company and an observer seat, as well as have the right to select two of the six planned managers for the board of CableSouth’s parent company going forward. The managers designated by ITC Holdings can be removed or replaced only by ITC Holdings or its designees. ITC Holdings (or its appointed managers) will also acquire a veto right over a variety of business activities, including, but not limited to: (i) effectuating a sale of the company, pledging all or substantially all assets of any CableSouth entity, filing for bankruptcy or liquidation, or merging or consolidating with any other person; (ii) amending any operative governance documents of the company; (iii) approving an annual budget; and (iv) establishing compensation levels for and removal of officers.”¹¹ Applicants acknowledge that these rights, coupled with a 35% indirect ownership stake, would provide ITC Holdings with a *de facto* controlling interest in CableSouth.¹²

⁴ Application at 2. Applicants state that authorization of RDOF support is a condition to closing the proposed transaction. *Id.* at 4.

⁵ *Id.* at 2-3 (citing Arkansas Public Service Commission, Docket No. 21-037-U, Order No. 3 (May 25, 2021); Order, Louisiana Public Service Commission Docket No. S-35904 (May 25, 2021); Order, Mississippi Public Service Commission, Docket 21-UA-39 (May 17, 2021)); Supplement at 2.

⁶ Application at 2; Supplement at 1. Applicants state that CableSouth is not affiliated with any ETCs through its existing ownership. Supplement at n.2.

⁷ Application at 2-3; Supplement at n.2. On December 15, 2021, the Bureau granted the domestic section 214 application of ITC Broadband Operating, LLC, wholly owned by ITC Holdings, to acquire Aspire Networks 1, LLC, a competitive LEC and RDOF recipient in Michigan. *Domestic Section 214 Application Granted for the Transfer of Control of Aspire Networks 1, LLC to ITC Broadband Operating, LLC*, WC Docket No. 21-415, Public Notice 21-1574 (WCB 2021).

⁸ Application at 6-8; Supplement at 2-3 and Exh. C (Pre- and Post-Transaction Ownership Charts). All individual members and majority owners of ITC Holdings, who are identified in the Supplement, are U.S. citizens. Supplement at 2-3 and Exh. A (Senior Management Team of ITC Broadband Holdings, LLC)..

⁹ Application at 8.

¹⁰ *Id.* at 3-4.

¹¹ Supplement at 2.

¹² Application at n.7; Supplement at 2.

Upon consummation, the existing beneficial owners of CableSouth will continue to indirectly hold a 65% interest in CableSouth.¹³

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.¹⁴ They certify that the proposed transaction would not result in any alteration to CableSouth's RDOF network buildout plans, that they will adhere to all Commission requirements associated with RDOF funding,¹⁵ and that "following the construction of its RDOF network, CableSouth will provide gigabit broadband and VoIP service to end-user customers in Arkansas, Louisiana, and Mississippi."¹⁶ They assert that ITC Holdings has significant industry and financial expertise in managing and investing in fiber networks and that "by leveraging this expertise and its extensive financial resources, ITC Holdings will better enable CableSouth to address technical and engineering matters and optimize build-out of its RDOF-supported network, whether in Arkansas, Louisiana, or Mississippi."¹⁷ They state that the proposed transaction would be transparent to prospective customers and to CableSouth's existing customers, who would continue to receive service pursuant to existing terms and conditions.¹⁸

Because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, in order to sufficiently analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.¹⁹

Domestic Section 214 Application Filed for the Transfer of Control of
CableSouth Media III, LLC to ITC Broadband Holdings, LLC, WC Docket No. 22-11
(filed Jan 5, 2022).

GENERAL INFORMATION

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

¹³ Application at 4; Supplement at 2.

¹⁴ Application at 9-11; Supplement at 3.

¹⁵ Application at 9-11; Supplement at 1-3.

¹⁶ Application at 8.

¹⁷ Supplement at 1.

¹⁸ Application at 11.

¹⁹ See 47 CFR § 63.03(c)(1)(v); *Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 09-197, 10-90, Order, DA 21-663, para. 30 (WCB 2021) (stating that ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act or to engage in the sale of assets under section 214 (including any authorization to receive RDOF support) must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission's rules governing the procedures for domestic transfer of control/asset applications, 47 CFR §§ 63.03-04).

Interested parties may file comments **on or before February 14, 2022**, and reply comments **on or before February 22, 2022**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper.

- **Electronic Filers:** Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
 - Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.²⁰ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov; and
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers

²⁰ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.²¹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Tracey Wilson at (202) 418-1394 or Jodie May at (202) 418-0913.

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²¹ See 47 CFR § 1.45(c).